

# MEMO

**DATE:** March 2, 2006

**TO:** Transportation & Communications Committee

**FROM:** Nancy Pfeffer, Acting Lead Regional Planner, SCAG, 213-236-1869, [pfeffer@scag.ca.gov](mailto:pfeffer@scag.ca.gov) *Nancy*

**SUBJECT:** Report on Second Washington, DC Trip Related to NEPA and Goods Movement

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**SUMMARY:**

The Committee will receive a briefing and status report on efforts to develop a federal/state/local Memorandum of Understanding related to the environmental impacts of goods movement in Southern California.

**BACKGROUND:**

Please refer to the attached report.

# MEMO

**DATE:** January 27, 2006

**TO:** Ginger Gherardi, VCTC  
Tony Grasso, SANBAG  
Eric Haley, RCTC  
Art Leahy, OCTA  
Mark Pisano, SCAG  
Roger Snoble, Metro

**FROM:** Barry Engelberg, Manager, Special Projects, OCTA, 714-560-5362, [bengelberg@octa.net](mailto:bengelberg@octa.net)  
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Lindell Marsh, neutral Attorney/Facilitator, for GMI (engaged by the CTCs), 949-706-7095, [lmars@lindellmarsh.com](mailto:lmars@lindellmarsh.com)

**SUBJECT:** Report on Second Washington, DC Trip Related to NEPA and Goods Movement

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## SUMMARY:

On January 23-25, 2006, we attended a series of meetings in Washington, DC, arranged at our request by the Growth Management Institute (GMI), as neutral facilitators, in follow-up to a similar series last June. The purpose of the meetings was to seek the participation of key federal agencies in a proposed Memorandum of Understanding (draft attached), along with your agencies, the State and the ports (as "principal conveners"), contemplating the development of a regional collaborative strategy for addressing the environmental effects of increasing goods movement within the region. At the January meetings, we were successful in obtaining high-level commitments from the US Department of Transportation (DOT), US Environmental Protection Agency (EPA), Department of the Interior (DOI), US Fish and Wildlife Service (FWS), and the US Trade Representative (USTR), and the White House Council on Environmental Quality (CEQ) to continue to work with us in consummating the MOU and, more broadly, in supporting our efforts with respect to an integrated freight infrastructure strategy (including mitigation of environmental, and community impacts).

## BACKGROUND:

On May 2, 2005, the University of California, Irvine, Department of Planning, Policy & Design convened a two-day Workshop/Dialogue on the National Environmental Policy Act (NEPA), facilitated by GMI, bringing together a small group of high-level agency representatives and experts to discuss how the implementation of NEPA could be improved. To focus the discussion, an "exemplar" was presented: the need to effectively and expeditiously address Southern California's increasing movement of imported goods (in support of US international trade), together with the need to simultaneously meet federal clean air standards and protect the quality of life in our communities.

The involvement of CEQ staff led to the scheduling of a series of meetings with representatives of the Bush Administration's trade office, the Environmental Protection Agency, and the Department of Transportation in Washington, DC, on June 21 and 22, 2005, to convey to these officials the nature and magnitude of infrastructure challenge and the environmental and community impacts posed by Southern California's key

# MEMO

role in international trade. These meetings resulted in the proposal to develop an MOU among all the affected levels of government – local/regional, state, and federal – to promote cooperation and assist in guiding early scoping efforts towards a systemic strategy for addressing goods movement and related environmental and community concerns within Southern California.

The meetings held January 23-25 were an opportunity to present, at the Deputy or Assistant Secretary level, an update on the Southern California concerns and the draft MOU. In each meeting, the senior officials expressed support for the MOU concept and designated staff to work with us further. Some highlights of the meetings follow:

- At DOT we met with George Schoener, Deputy Assistant Secretary for Transportation Policy in the Office of the Secretary of Transportation, and key members of his staff, acknowledging their regional representative, Randy Rogers (MARAD), who was appointed to provide a direct linkage between the Assistant Secretary's office and the Ports region. Mr. Schoener directed us to work further on the MOU with Linda Lawson, Director of the Office of Safety, Energy and Environment in the Office of the Secretary, as well as Rogers. In addition to working on the MOU, Ms. Lawson indicated that as an effort under or related to the MOU, she would explore the application of the President's Executive Order 13274 on environmental stewardship. In the words of CEQ Counsel Dinah Bear, while the Executive Order is not intended to "cut corners" in the environmental review, projects under the aegis of this Executive Order receive "priority attention". Also accompanying us at the DOT meeting were Douglas Porter, President of the non-profit Growth Management Institute and Governor Arnold Schwarzenegger's representative in Washington, Eric Swedlund (we expressed in the various meetings that the role of the Governor and the State in the MOU is critical, with the MOU expressly providing for the State as a key "principal convener" and suggesting that it should be pursuant to a Gubernatorial executive order).
- At EPA, we met with Bill Wehrum, Acting Assistant Administrator for Air and Radiation, and key members of his staff. Participating by phone were Debbie Jordan, Director of the Air Division of EPA Region 9, and Enrique Manzanilla, Director of the Communities and Ecosystem Division, EPA Region 9. Administrator Wehrum expressed his support for the effort and said that Region 9 would be "on point" for further work on this effort. He also said he would designate staff in Washington, DC, to support the region and work with us on the MOU.
- At DOI we met with Deputy Secretary Lynn Scarlett and H. Dale Hall, Director of the U.S. FWS. Secretary Scarlett (who is from California and was formerly with the Reason Foundation) in discussing possible mitigation strategies, challenged us to promote the "greening" of the urban setting of the goods movement system to offset its impacts (mentioning that it would be "nice to remove some of the outdated concrete channels" and conserve open space). Mr. Hall suggested that while Washington would work with us on exploring the MOU, we should develop a working relationship with DOI's representative for California and the Western states, based in Sacramento.
- At USTR, we met with Alice Mattice of the Environment and Natural Resources Section. USTR is a sister agency to CEQ in the Office of the President. She indicated that USTR has historically been tasked to negotiate national trade agreements and that it would be appropriate for USTR to coordinate with other federal agencies in considering the role of such trade on domestic infrastructure and environmental impacts. Clearly, the mitigation of such impacts may well require Administration efforts on the international level. She also thanked us for our recently submitted comments on the Interim

# MEMO

Environmental Review for the proposed U.S.-Thailand Free Trade Agreement (the first such review to discuss domestic effects). She advised us that another opportunity to comment will soon arise as the USTR negotiates an across-the-board trade agreement with the World Trade Organization.

Our next steps are:

- Follow up with each of these federal agencies (DOT, EPA, DOI) as directed, at both the Washington and regional levels. We are focusing on a late March signing.
- Meet with key state officials, including Secretary of Business, Transportation & Housing Sunne McPeak, Cal/EPA Secretary Alan Lloyd, Resources Secretary Mike Chrisman, and additional staff from the Governor's office as suggested by Eric Swedlund. The participation of the State in the MOU is critically important. The focus of the discussion will be on the MOU and the benefits of the MOU process in assisting the State and all of us in coordinating and clarifying our individual roles and efforts regarding environmental and community impacts, including those relating to the much needed success of the State's Goods Movement Action Plan.
- Assist in integrating the MOU effort and outcomes of these meetings into the regional consensus trip to Washington and related follow-on efforts.
- Work with EPA and the state and local air agencies to coordinate the roles of the various contributors to the regional 2007 SIP air quality strategy.
- Communicate with other key agencies (e.g. the Ports) and interests (e.g. the NGOs) regarding the MOU effort.

**WEST COAST NATIONAL FREIGHT GATEWAY STRATEGY  
MEMORANDUM OF UNDERSTANDING  
AMONG AFFECTED REGIONAL, STATE  
AND FEDERAL AGENCIES AND INTERESTS**

**February, 2006**

*This Memorandum of Understanding* (“MOU”) is entered into by the undersigned federal, state and local agencies and other public and private organizations to provide for the cooperative development of a framework strategy to address environmental and community concerns, issues and opportunities relating to the increasing movement of imported goods within the “West Coast National Freight Gateway” area of the Los Angeles Metropolitan region extending from the Ports in San Pedro Bay to the cities of Barstow and Indio, California (“National Freight Gateway Area” or “Area”),.

**I. RECITALS.**

*Acronyms* are defined below.<sup>1</sup>

*Whereas*, the San Pedro Bay Ports of Los Angeles and Long Beach are the third largest sea-to-land port complex in the world. *They process 44% of all imported goods entering the Nation*, with *only* 30% of these goods being consumed within the region and 70% distributed primarily by truck and rail nation-wide and to Europe. Freight being moved annually has a value of \$200 billion, supports 2 million jobs, and generates \$16.4 billion in state and local taxes.

*Whereas*, the population of the National Freight Gateway Area is expected to increase by 6 million people 16.8 to 22.9 million by 2030 (an increase of 37%, or approximately 6 million people within 25 years), with significant demands on the capacity of the region’s transportation infrastructure, *independent of any consideration of the increasing movement of freight*.

*Whereas*, the regional freeway and railway systems within the Area are already severely congested, with insufficient funding identified to even maintain existing infrastructure. Combined increases in population and freight volumes will significantly worsen congestion on freeways and railways and will increase the need for major new and upgraded infrastructure and the costs of on-going maintenance and repair. Annual truck traffic serving the Ports is expected to increase from 34,000 trips in 2000 to 92,000 in 2020 and *daily* train traffic is expected to increase from 170 trains in 2000 to 265 in 2010, and 390 in 2025.

*Whereas*, the increase in freight movement offers significant economic opportunities to the region in the form of additional business, more and better quality of jobs, and enhanced local, State and federal tax revenues.

*Whereas*, the anticipated increases in freight movement within the region threaten significant and

adverse impacts to its communities and the environment (including but not limited to air and water quality and natural lands and wildlife) and to the health and safety and quality of life of its people without the provision of major mitigation, the design and implementation of which will be daunting.

*Whereas*, there are significant delays, inefficiency, increases in costs and loss of opportunities resulting from the current fragmented and complex local, state and federal systems, processes and practices for planning, designing, funding, implementing and constructing regional freight movement and transportation projects and the regulation thereof for other and related public concerns.

*Whereas*, there is significant need for coordination and collaboration among local, state and federal agencies and interests (including effective leadership and public participation) to address the goods movement infrastructure needs and concerns, issues and opportunities described above, as envisioned by the National Environmental Policy Act of 1969 and the California Environmental Quality Act.

## **II. FURTHER DEVELOPMENT AND IMPLEMENTATION OF A WEST COAST FREIGHT GATEWAY STRATEGY**

Based on the foregoing, at the request of California Governor Schwarzenegger and the State of California, SCAG, the CTCs, CBTH, USDOT and the Ports, as “Principal Conveners” will convene and manage a process, in cooperation with affected federal, state, and local agencies and interests, to collaboratively and expeditiously address the daunting community and environmental impacts of moving the anticipated immense volumes of goods through the region, as follows.

### **A. Scoping of the Strategy.**

Among other efforts, no later than June 30, 2006, the Principal Conveners shall deliver to the Governor and United States Secretary for Transportation a Phase I Scoping Report on the progress and preliminary results in the development of the collaborative strategy, together with recommendations for its completion and implementation.

SCAG will administer the process by convening meetings and assisting in the development of the policy framework under the direction of the Principal Conveners. The Principal Conveners have committed the necessary resources through Phase I of the process and will use their best efforts to expeditiously obtain and provide adequate resources thereafter. The Strategy will include elements that can be implemented by individual agencies or agencies acting in collaboration and will take into consideration current and past efforts.<sup>2</sup> Local and public input will be critical.

The Phase I Report will discuss alternative approaches and reflect differing viewpoints as to approaches and underlying considerations. It will also address specific concerns, such as the desirability and possible form of a regional institution that has sufficient authority to, among

other things, study, design and implement necessary infrastructure and mitigation programs.

**B. Participation by Public Agencies and Public and Private Organizations.**

The other signatories below who are not Principal Conveners, shall participate as “Participants” in the process under this MOU as determined appropriate by the Principal Conveners. Other public agencies and public and private organizations may also become “Participants” by providing notice in writing to SCAG.

**C. Early cooperative efforts of Participants.**

Concurrently, the Principal Conveners and Participants will cooperate with respect to the consideration and implementation of current goods movement infrastructure projects in accordance with existing laws and regulations; and, support, and encourage the Governor to support efforts in the California Legislature to develop legislation to provide for innovative project procurement and financing approaches.

**D. Inclusion in list of priority transportation projects.**

Concurrent with the taking effect of this MOU, pursuant to Presidential Executive Order 13274, FDOT shall include West Coast National Freight Gateway Strategy in the list of priority transportation projects for coordinated federal agency decision-making.

**III. MISCELLANEOUS PROVISIONS.**

**A. Designation of Representatives.**

Each Principal Convener and Participant shall designate a person to serve at its pleasure and represent it under and for the purposes of this MOU by notification in writing to SCAG for the Principal Conveners.

**B. No Obligation to Provide Funding.**

The commitment by Participants to participate is subject to existing authorities and the availability of funds. This MOU does not obligate nor commit State or Federal funds and will not give rise to a claim for State or Federal funds. Any activity involving reimbursement or contribution of funds between the parties to this MOU must be independently authorized by law and will be subject to applicable laws, regulations, and procedures.

**C. Non-binding.**

Notwithstanding any other provision of this MOU, this MOU will take effect upon its signing (as

a single original or in counter-parts) by all of the Principal Conveners and is intended to: (i) state the intent of the signatories in order to provide an informal basis for coordination among them and is and shall not be legally binding on any signatory for any purpose; and, (ii) shall be interpreted to be consistent with applicable provisions of State and Federal law.

**E. Amendments.**

This MOU may be amended only by a writing signed by the Principal Conveners. Any party to the MOU may cease to be a Participant by providing written notice of such termination to the SCAG for the Principal Conveners.

**IN WITNESS WHEREOF**, the parties have signed this MOU on the dates set forth below their signatures.

**FEDERAL AGENCIES**

\_\_\_\_\_  
Department of Transportation  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Assistant Administrator for Air and  
Radiation  
Environmental Protection Agency  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Assistant Secretary for Fish, Wildlife and  
Parks  
Department of the Interior  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Assistant Secretary of the Army  
for Civil Works  
United States Army Corps of Engineers  
Dated: \_\_\_\_\_

**STATE OF CALIFORNIA**

\_\_\_\_\_  
Business, Transportation and Housing  
Dated: \_\_\_\_\_

\_\_\_\_\_  
California Resources Agency  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Environmental Protection Agency  
Dated: \_\_\_\_\_

**REGIONAL/LOCAL AGENCIES**

\_\_\_\_\_  
Southern California Association of  
Governments  
Dated: \_\_\_\_\_



**“CTCs”**

\_\_\_\_\_  
Metropolitan Transit Authority  
Dated: \_\_\_\_\_

\_\_\_\_\_  
San Bernardino Associated Governments  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Riverside County Transportation  
Commission  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Orange County Transportation Authority  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Ventura County Transportation Comm.  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Imperial County  
Dated: \_\_\_\_\_

**“Ports”**

\_\_\_\_\_  
Long Beach Board of Harbor  
Commissioners  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Los Angeles Board of Harbor  
Commissioners  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Port of Hueneme, Oxnard Harbor District  
Dated: \_\_\_\_\_

**1    Acronyms:**

CARB:     Calif. Air Resources Board  
CBTH:     Calif. Business, Transportation and Housing  
          Agency  
CEPA:     Calif. Environmental Protection Agency  
CTCs:     County Transportation Commissions including:  
          MTA, OCTA, RCTC, and SANBAG  
DOI:       United States Department of the Interior  
LAEDC:   Los Angeles Economic Development Corporation  
MTA:       Los Angeles Metropolitan Transportation Authority  
OCTA:     Orange County Transportation Agency  
Ports:     Port of Los Angeles and Port of Long Beach  
RCTC:     Riverside County Transportation Commission  
SANBAG:   San Bernardino Associated Governments  
SCAQMD:   South Coast Air Quality Management District  
SCAG:     Southern California Association of Governments  
USDOT:    United States Department of Transportation  
USEPA:    United States Environmental Protection Agency  
VCTC:     Ventura County Transportation Commission